IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11777 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE A.M.KAPADIA

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MRS PRITEE JITENDRA TAWRI - Petitioner(s)

Versus

JITENDRA KASHINATH TAWRI - Respondent(s)

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Appearance :
MR YF MEHTA for Petitioner No(s).: 1.
MS FEMINA CHAPATWALA for Respondent No(s).: 1.
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CORAM : HONOURABLE MR.JUSTICE A.M.KAPADIA

Date : 16/08/2005

ORAL JUDGMENT

1.Leave to substitute 'Article 227' in place of 'Article 226' in the cause-title of the petition.

2.**RULE**. Mr. Femina Chapatwala, learned advocate appears and waives service of notice of rule on behalf of the

respondent.

3. By filing instant petition under Article 227 of the Constitution of India, the petitioner seeks to challenge the order dated 21.5.2005 recorded below application exh.8 and 32 in Hindu Marriage Petition no. 43 of 2004 by the learned 2nd Joint Civil Judge (SD), Navsari, by which the application exh.32 filed by the respondent came to be allowed and thereby respondent – natural father is given visitation right and is allowed to meet his minor daughter Rashi on all Sundays between 10.00 AM to 8:00 PM with further direction that he will not take his daughter outside jurisdiction of petitioner and also directed the petitioner that during above visitation time, she gives cooperation and behave properly with the respondent-father.

4. Having heard Mr. Y.F.Mehta, learned advocate of the petitioner and Ms. Femina Chapatwala, learned advocate of the respondent and on perusal of the impugned order and more particularly the consensus arrived at between the parties, the order which is impugned under this petition is required to be modified by giving the respondent-father visitation right and allowing to meet his minor daughter Rashi on 2nd and 4th Sunday between 12:00 Noon and 5:00 PM instead of all Sundays between 10:00 AM and 8:00 PM, which would meet the ends of justice.

5. In aforesaid view of the matter this petition succeeds in part and accordingly it is partly allowed. The impugned order is modified in following terms:

   The respondent-natural father is given visitation right and allowed to meet his daughter Rashi on 2nd and 4th Sunday between 12:00 Noon and 5:00 PM instead of all

Sundays between 10:00 AM and 8:00 PM, with further direction that the respondent-father shall not take his daughter outside the jurisdiction of the petitioner and the petitioner is also directed that during the above visitation time, she gives cooperation and behave properly with the respondent.

6.Rule is made absolute to the aforesaid extent.

7.On the facts and in the circumstances emerging from the record of the case, the learned Civil Judge (SD), Navsari is directed to expedite the hearing of Hindu Marriage Petition No. 43 of 2004 and shall conclude and decide the same preferably on or before 30.4.2006. It is expected of both the parties to cooperate with the learned trial Judge for expeditious disposal of the Hindu Marriage Petition No. 43 of 2004.

(A.M.Kapadia,J)

Jayanti*